

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DONALD ROGER LAYNE,

Petitioner,

v.

Civil Action No. 2:07cv73

COMMISSIONER A.V. DODRILL, JR.,

Respondent.

ORDER

The Petitioner in the instant action filed a petition pursuant to 42 U.S.C. §1983. On October 17, 2007, the Petitioner filed a Motion to Withdraw Complaint Without Prejudice, which the Court construes as a Motion to Dismiss. By Report and Recommendation filed on October 18, 2008, Magistrate Judge James E. Seibert recommended that the Clerk of Court be directed to close this case and dismiss it from the active docket. The parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. No objections were filed within the requisite time period.

Upon review of the matter, it is hereby

ORDERED that Magistrate Judge Seibert's Report and Recommendation shall be, and the same hereby is, accepted in whole. Accordingly, the Petitioner's Motion to Dismiss is hereby **GRANTED**, and the Clerk of Court is directed to close the above-styled civil action and dismiss it from the active docket of this Court.

ENTER: May 29th, 2008

/s/ Robert E. Maxwell
United States District Judge